

## DRUG FOR VETERINARY USE\*

**3439. Misbranding of Master Liquid Hog Medicine. U. S. v. 7 Cans, etc. Tried to the court; verdict for the Government. Decree of condemnation and destruction. Case appealed to U. S. Court of Appeals for Eighth Circuit; appeal subsequently dismissed. (F. D. C. No. 26934. Sample No. 25585-K.)**

**LIBEL FILED:** March 18, 1949, Northern District of Iowa.

**ALLEGED SHIPMENT:** On or about January 7, 1949, by Master Laboratories, from Omaha, Nebr.

**PRODUCT:** 7 3-gallon cans and 3 5-gallon cans of *Master Liquid Hog Medicine* at Steamboat Rock, Iowa, together with a number of leaflets entitled "Master Treatment for Brood Sows."

Analysis showed that the product consisted essentially of an aqueous solution of sodium thiosulfate, sodium hydroxide, sodium carbonate, potassium arsenite, with phenolic compounds such as cresote, guaiacol, and betanaphthol, nicotinic acid, and anise oil.

**NATURE OF CHARGE:** Misbranding, Section 502 (a), certain statements on the can labels and in the leaflets were false and misleading. These statements represented and suggested that the article was effective in the prevention and treatment of scouring pigs, and in the treatment of pigs which are scouring from the disease known as necro, whereas the article was not effective for such purposes.

**DISPOSITION:** Master Laboratories appeared as claimant and filed an answer denying that the article was misbranded. The case came on for trial before the court on May 9, 1950, and continued through May 11, 1950. On May 20, 1950, the court handed down its findings of fact and conclusions of law to the effect that the article was misbranded; and, on the same day, the court entered a decree providing for the condemnation of the product and its destruction.

A notice of appeal to the U. S. Court of Appeals for the Eighth Circuit was filed by the claimant on July 17, 1950. Thereafter, several continuances were granted by the appellate court, upon claimant's motion extending the time to print, serve, and file copies of the record and brief of the claimant. Following the filing of claimant's printed record and printed brief, a motion to strike such record and brief and to dismiss the appeal was filed by the Government. On May 2, 1951, the U. S. Court of Appeals for the Eighth Circuit handed down the following decision:

"This cause came on to be heard on the motion of appellee, presented by Mr. William B. Danforth, Assistant United States Attorney, to strike appellant's printed record and printed brief, and to dismiss the appeal from the United States District Court for the Northern District of Iowa, at appellant's costs. Appellant's resistance to the motion is submitted to the Court without oral argument.

"It is apparent that the printed record on appeal has been prepared in utter disregard of the provisions of the Rules of this Court, and the evidence has been reduced to such extent that this Court cannot possibly determine therefrom the questions presented for decision. For failure of appellant to print and file an adequate record containing in narrative form so much of the entire record as is essential to the appeal, It is, after due consideration, now here Ordered and Adjudged by this Court that the appeal in this cause be, and the same is hereby, dismissed at the costs of the appellant."

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\*See also No. 3429.

Subsequent to the decision of the circuit court of appeals dismissing the appeal, a motion for rehearing was filed by the claimant but was denied on May 9, 1951.

### DRUG ACTIONABLE BECAUSE OF FAILURE TO COMPLY WITH PACKAGING REQUIREMENTS OF AN OFFICIAL COMPENDIUM

3440. Misbranding of injectable liver. U. S. v. 44 Vials \* \* \*. (F. D. C. No. No. 30400. Sample No. 25131-L.)

**LIBEL FILED:** January 25, 1951, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about December 15, 1950, by the American Bio-Chemical Corp., from Los Angeles, Calif.

**PRODUCT:** 44 unlabeled vials of *injectable liver* at Philadelphia, Pa. The product was received by the consignee in two packages, each of which contained 25 unlabeled vials with a label on the outer wrapper reading, in part, "30 cc Vial \* \* \* Injectable Liver Each cc contains the soluble extractives derived from 100 grains of fresh beef liver. \* \* \* For Intramuscular Use."

**NATURE OF CHARGE:** Misbranding, Sections 502 (b) (1) and (2), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 502 (g), the article purported to be liver injection, a drug the name of which is recognized in the United States Pharmacopoeia, an official compendium, and the article was not labeled as prescribed in the compendium since its label failed to show any potency assigned to it by the U. S. P. Anti-anemia Preparations Advisory Board.

**DISPOSITION:** May 14, 1951. Default decree of condemnation and destruction.

### INDEX TO NOTICES OF JUDGMENT D. D. N. J. NOS. 3421 TO 3440

#### PRODUCTS

	N. J. No.		N. J. No.
Amphetamine sulfate tablets	3422	Hormotone "T" tablets	3421
Androgenic substances	3421, 3422	Injectable liver	3440
Biotropin	3432	Jalap root	3431
Brown's powdered goat milk	3434	Liver, injectable	3440
Burdock root	3431	Master Liquid Hog Medicine	<sup>2</sup> 3439
Clinical thermometers	3433	Metandren Linguets	3421
Cocillana bark	3431	Methyltestosterone tablets	3421, 3422
Combisul tablets	3424, 3426	Mineral solution	3429
Desoxyn Hydrochloride tablets	3424, 3425	Neo-Hombreol tablets	3421
Devices	3433, <sup>1</sup> 3436-3438	Oreton-M tablets	3421
Dexedrine Sulfate tablets	3422-3424	Phenobarbital tablets	3423
Estinyl tablets	3421	Phenothiazine drench	3430
Estrogenic substances	3421, 3427	Premarin tablets	3427
Goat milk, powdered	3434	Sal-Trag Compound	3428
Hollywood Vita-Rol device	3437	Spectro-Chrome device	3438
		Squill, white	3431

<sup>1</sup> (3436) Prosecution contested. Contains instructions to the jury and opinion of the court.

<sup>2</sup> (3429) Seizure contested.